COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

OFFICE CORRESPONDENCE

DATE:
June 27, 1990
FILE NO.
089-30858-2517-051

FROM: ROBERT C. RIPLEY, A/CHIEF
DETECTIVE DIVISION

TO: SHERMAN BLOCK
SHERIFF

SUBJECT: **LETTER OF OPINION OF DEPUTY INVOLVED SHOOTING**

A Letter of Opinion was received from the District Attorney's Office regarding the case involving Deputy Clifford Yates, #[redacted].

STATION: Lynwood

DATE OF SHOOTING: October 28, 1989

SUSPECT: RODRIGUEZ, Conrado MH/22

Deputy Yates and his partner drove upon a large fight in progress. Deputy Yates observed the suspect holding a bumper jack over his head, about to hit another person. The suspect refused to drop the bumper jack, and Deputy Yates fired three rounds, wounding him.

DISTRICT ATTORNEY'S OPINION

"California law permits the use of deadly force in self-defense or in defense of another if it appears that (1) there was an actual and reasonable belief of imminent danger of great bodily injury or death, and (2) as a reasonable person, there was sufficient grounds for that belief.

In protecting oneself or another from an apparent imminent injury, a person may use all the force and means which he or she believes to be reasonably necessary and which would appear to be necessary to prevent the injury.

☐ SHERIFF	☐ CHIEF - F.O.R. II	☐ CHIEF DETECTIVES	☐ CAPT HOMICIDE
☐ UNDERSHERIFF	☐ CHIEF - F.O.R. III	☐ CDR. DETECTIVES	☐ CAPT. NARCOTICS
☐ ASSISTANT SHERIFF	☐ CHIEF - TECH. SERV.	☐ CAPT. CENTRAL INVEST.	☐ INFORMATION BUREAU
☐ CHIEF - ADMIN. DIV.	☐ CHIEF - COURT SERVS. DIV.	☐ CAPT. JUV. INVEST.	☐ CONTRACT LAW
☐ CHIEF - CUSTODY DIV.	☐ COMMANDER -	☐ CAPT. COMM. CRIMES	☐ PSYCHOLOGICAL SERVICES
☐ CHIEF - F.O.R. I	☐ CAPTAIN -	☐ CAPT. VICE	☐

SH-AD-539 (Rev. 3-87)

Based on the available evidence, it is clear that at the time Deputy Yates shot and wounded Mr. Rodriguez he did so to protect the life of another individual. Deputy Yates had already observed Mr. Rodriguez twice strike one individual with a bumper jack. Mr. Rodriguez was about to deliver a potentially lethal blow to a second individual when Deputy Yates fired his weapon. Under these circumstances it must be said that the actions of Deputy Yates were justifiable.

Accordingly, we will take no further action in this matter. Our file in this case is closed."



OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LOS ANGELES
SPECIAL INVESTIGATIONS DIVISION
CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-3275

IRA REINER, DISTRICT ATTORNEY

(213) 974-3892

June 22, 1990

Captain Robert T. Grimm
Los Angeles County Sheriff's Department
Robbery-Homicide Division
211 West Temple Street
Los Angeles, California 90012

Dear Captain Grimm:

In Re: S.I.D. FILE NO. 100-6538/ 89-0274
L.A.S.D. FILE NO. 089-30858-2517-051

The Special Investigations Division of the Los Angeles County District Attorney's Office has completed its review of the October 28, 1989, non-fatal wounding of Conrado Gonzales Rodriguez, age 22, by Deputy Clifford Yates of your department. We have concluded that the actions of Officer Yates were justifiable and that no criminal conduct occurred.

Our Command Post was notified of the incident shortly after its occurrence. Deputy District Attorney Kenneth Freeman and Investigator [redacted] responded to the scene, where they were briefed by Sergeant Mark Winter. In reaching our decision in this matter we have reviewed and considered reports prepared by the Robbery-Homicide Division of your department, as well as reports prepared by our Bureau of Investigation.

FACTUAL SUMMARY

On October 28, 1989, at approximately 1:10 a.m., Deputies Clifford Yates and Eric Parra were on patrol in a marked police vehicle, northbound on Long Beach Boulevard, Lynwood, when they observed approximately twenty people involved in a fight. Deputy Yates radioed for assistance and due to the numerical odds against them decided to wait for assistance before taking any further action.

Deputies Yates and Parra exited their vehicle, and each observed Conrado Rodriguez wielding a bumper jack above his head about two feet in length, swinging it at people close by. The suspect was attempting to hit anyone near him. Deputy Yates twice saw Rodriguez hit another individual with the bumper jack.

As Rodriguez was getting ready to strike another individual from behind, Deputy Yates drew his weapon, and approached Rodriguez. He repeatedly yelled, "Drop it." Deputy Yates stated that he heard Deputy Parra yell at the suspect, "Drop the axe." Rodriguez refused to comply. Deputy Yates closed to within 15 to 20 feet of the suspect when he observed the suspect lift the bumper jack over his head in a motion resembling a "carnival bell-ringing contest." Deputy Yates believed that the suspect was about to kill the victim with a blow to head and fired three rounds at the suspect in rapid succession.

Rodriguez lowered the bumper jack to a "port arms" position, turned towards Deputy Yates, then ran across the street. Deputy Yates pursued the suspect yelling, "Drop it." The suspect finally stopped at the curbline of the street, where he dropped the bumper jack in the street, raised his hands in the air, and turned around. He was handcuffed and taken into custody without further incident. The suspect was transported to St. Francis Hospital for medical treatment for gunshot wounds to his legs.

<u>CIVILIAN WITNESS ACCOUNTS</u>

Los Angeles Sheriff's Department investigators subsequently interviewed numerous people at the scene who had witnessed the events leading up to the shooting. Several of the witnesses made relevant comments.

[redacted], age 21, told investigators that she went to Tam's Restaurant, located at 11816 Long Beach Boulevard, Long Beach, with several of her friends. While at the location, she and her friends became involved in a verbal argument with five male Hispanics. She left the restaurant and went home where she told her husband, [redacted], and his brother, [redacted], what had occurred. Shortly thereafter, she and her husband, along with several other friends, returned to Tam's to confront the five males. She stated that the suspect already had the bumper jack when they went inside. A fight started inside the restaurant and spilled over to the street in front of the restaurant. She saw the suspect hit [redacted] several times with the bumper jack. The suspect was about to strike [redacted] with the jack when she saw the deputies and heard one yell,

"Freeze, drop it." She stated that when the suspect did not stop fighting the deputy fired his gun.

[redacted], age 21, indicated that he was present at the fight. He stated that he saw the suspect with the bumper jack. At first, it appeared to him that he was swinging it in an attempt to fend people off, but then the suspect began swinging it at people in the fight. [redacted] said he heard the deputy yell, "Freeze," and he then heard three shots fired in rapid succession.

On October 28, 1989, the suspect, Conrado Rodriguez, was interviewed at St. Francis Hospital and asked to relate the events leading up to his arrest. He told investigators that he was at Tam's Restaurant with two male friends, whom he refused to identify, when an argument occurred between one of his friends and two males and a female. After the argument, the two males and the female left the location. A short time later they returned with a large group of male Hispanics. A fight broke out between this group and he and his friends. He stated that he retrieved the bumper jack from his car and admitted to striking someone with it. He stated he did this to protect himself and his two friends. He recalled being shot, but stated he was unaware of the deputies' presence until he was arrested. This interview was then terminated to allow for medical treatment to continue.

On November 1, 1989, investigators contacted the suspect by telephone and requested to continue the interview regarding the events prior to the suspect being shot. Mr. Rodriguez refused to speak with investigators until he had consulted an attorney.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in defense of another if it appears that (1) there was an actual and reasonable belief of imminent danger of great bodily injury or death, and (2) as a reasonable person, there was sufficient grounds for that belief. See People v. Williams (1977) 75 Cal.App.3d 731, 739.

In protecting oneself or another from an apparent imminent injury, a person may use all the force and means which he or she believes to be reasonably necessary and which would appear to be necessary to prevent the injury. See California Jury Instructions, Criminal (CALJIC) 5.30 and 5.32.

Based on the available evidence, it is clear that at the time Deputy Yates shot and wounded Mr. Rodriguez he did so to protect the life of another individual. Deputy Yates had already observed Mr. Rodriguez twice strike one individual with a bumper jack. Mr. Rodriguez was

about to deliver a potentially lethal blow to a second individual when Deputy Yates fired his weapon. Under these circumstances it must be said that the actions of Deputy Yates were justifiable.

Accordingly, we will take no further action in this matter. Our file in this case is closed.

Very truly yours,

IRA REINER
District Attorney

CURT LIVESAY
Assistant District Attorney

By [signature]

REID A. ROSE
Deputy District Attorney

ag

c: Clifford Yates